
In The Court of Appeals
Fifth District of Texas at Dallas

MOLLY WILKERSON V. MARK MALDONADO



In The Court of Appeals Fifth District of Texas at Dallas

05-21-00360-CV

~~05-21-00373-CV~~

~~05-21-00242-CV~~

On Appeal from the 366th Judicial District Court

Collin County, Texas

Trial Court Cause Nos. ~~366-55554-2020~~, 366-51795-2021, and

~~366-50778-0001~~

Appellant's Brief

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Oral Argument Requested

In The Court of Appeals
Fifth District of Texas at Dallas

MOLLY WILKERSON V. MARK MALDONADO

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How can legal semantics sold to the highest bidder in a contentious divorce/custody suit ever justify unnecessary suffering from deprivation of the parent-child relationship? This is a Human Rights Issue.

Vexatious Mom

(1) The vexatious litigant statute is facially invalid; (2) the vexatious litigant statute is invalid as applied in this present case; (3) the trial court erred when designating Appellant a vexatious litigant without allowing evidence submissions and arguments; and (4) the vexatious litigant law violated Appellant's substantive rights when it infringed upon her parental rights and rights to appeal.

Oral Argument Request

Appellant respectfully requests oral argument if the Honorable Fifth District Court of appeals requests such.

Abbreviations and Titles for Context.....

MCM and MAM: The minor children of concern in the case

Appellant: Molly L. Wilkerson

Appellee: Appellee, Mark Maldonado

OC: Opposing Counsel

PO: Protective Order

APO: Application for Protective Order

SAPCR: Suit Affecting Parent-child Relationship

LAJ: Local Administrative Judge

Records References.....

A. Clerk's Records

The clerk's records in cause **366-51795-2021** will be referred to as CR with page number.

B. Reporter's Records

The reporter's records in cause **366-51795-2021** will be referred to as RR followed by Vol. 001 and page number and line numbers.

C. Hearing Record

The records in cause **366-51795-2021** will be referred to as Hearing Rec. followed by volume number, page number, and line numbers.

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Nature of Case / Statement of Facts

THE HONORABLE JUSTICES OF 5TH COURT OF APPEALS,

On November 23, 2021, this Honorable Court ordered abatement in an associated original mandamus proceeding, 05-21-00439-CV. Appellant, Molly Wilkerson, maintains that there is no adequate remedy on appeal for necessary relief for her or minor children, MCM and MAM.

The **nature of case in Collin County TC, 366-51795-2021/ COA Cause: 05-21-00360**, is an application for a protective order case in which Appellant was denied her request for protection and designated as a vexatious litigant.

Statement of Facts (*Docket Sheet, CR, p.4*)

1. Throughout the pendency of their divorce commenced on June 30, 2020, Appellant contends that Appellee harassed her with extensive frivolous litigation that cost her a chance at adequate representation, all of the money she had

saved, her job, her graduate school pursuit when she only had one remaining semester of practicum, and what's most devastating, going on one year of precious moments with MCM and MAM.

[THE COURT: All right. Thank you. Ms. Wilkerson, do you wish to make any statements in regards to your inability to pay the court reporter's fees for the records in your matters that you have taken up on appeal?

MS. WILKERSON: Yes, sir. My initial affidavits in -- I guess it was November I filed one. I had a job at that time. I was a full-time graduate student, and my income was roughly \$1,300 a month net --

or gross, and I had a substantial amount of money that I received from school. But after three months of litigation and \$43,000, I didn't have any of that money left, so \$1,300 a month doesn't go very far. And then in February, after extensive litigation, I lost my job. I had to take a step back from graduate school because I was in practicum.]

Hearing Rec., Vol. 001, p. 16, Lines 4-19

MS. WILKERSON: Sir, most of my pleadings are responsive and a lot of the things that I have plead have been looking at -- based on looking at their stuff and how to draft it. The things that I do is learning from them and they have filed so many motions. Like I said, this is my 17th --

RR, Vol. 001, p. 12, Lines 5-10

2. The trial court as biased by Appellee's defamatory claims in ex parte pleading on January 6, 2021. See, *Respondent's Second Emergency Ex Parte Application for Writ Of Habeas Corpus And For Writ Of Attachment* , 01/06/2021, 366-53554-2020, (CR, Sup. 1, 366-53554-2020, p.42); on January 7, 2021, the

trial court entered Appellee's ex parte request for *Further Temporary Orders*. Appellant has been held in contempt ever since because the trial court continued to enter all of Appellee's subsequent ex parte requests. See *Further Temporary Orders*, Appendix, p.

3. Appellant requested court appointed counsel on January 8, 2021, because it was not possible to represent herself, to protect MCM and MAM, and defend her fundamental rights against Appellee's overwhelming litigation demands.

Q. (By Ms. Varela) Do you recognize the document I just handed you?

A. Yes, ma'am.

Q. And did you fill that out?

A. Yes, ma'am.

Q. And submit it with the Collin County Indigent Defense Office on January 8th of this year?

RR4-Sup., p. 8, Lines 19-25

5. On February 5, 2021, Appellant filed an application for a protective order in Collin County on February 5, 2021, for which Appellant did not receive a hearing, and when she tried to file notice on February 10, 2021, to potentially receive a hearing, her notice was rejected on February 12, 2021, just hours before Appellee's temporary application for a PO was heard in an auxiliary court in cause, 366-50778-2021, (*Rejected APO*, CR1, 366-51795, p. 15).

6. On March 3, 2021, Appellee was granted his requested PO, and

Appellant's application was not acknowledged. (See associated cause TC, 366-50778/ COA, 05-21-00373).

7. On March 3, 2021, the trial court subsequently granted Appellee's ex parte request for SAPCR orders that have left Appellant deprived of her fundamental parental rights rights to two children, six-year-old, MAM, and 8-year-old MCM, for nearly one year now. (See Petition for Writ of Mandamus before this Court, 05-21-00439/ TC, 366-53554-2020) -note, there is no adequate remedy on appeal.

[MS. WILKERSON: Okay. Okay, sir. So me -- like, the fact that -- the fact that I can't, like, even go and appeal, like, something and -- which you've told me I could appeal the divorce situation. I've tried and I've -- I've figured out how to file an appeal. I can't appeal final orders that completely, permanently restrict my access to the children.]

RR, Vol, 001, p. 13, Lines 8-14

8. On April 5, 2021, Appellant resubmitted her PO application. On April 13, 2021, the day after Appellant's underlying case was accepted by this Court for appeal, Appellee motioned to have Appellant designated as a Vexatious Litigant in her PO cause, (CR1 366-53554-2020 p.1570; and CR1 366-53554-2020, p.1573).

9. The trial court set a hearing for April 20, 2021, for Appellant's APO and for Appellee's request to designate Appellant a vexatious litigant. Appellee's request was granted, and Appellant's was denied. (CR, p. 48 and CR, p. 58)

Pro Tunc.

10. On November 15, 2021, the Local Administrative Judge Denied Appellant's request to file Petition for Writ of Mandamus. (05-21-00242)

11. Appellee turned the 366th District Court of Collin County, TX into a post-separation abuse warzone against Appellant with harassing litigation, the weaponization of his own children, and through humiliating and oppressive order requests.

Appellant: "And one of the things I did file was to enforce visitation. I -- I want -- these are my kids. Like, they are suffering and they're hurting the most. And that's why I'm desperate. Like, I'm desperate to protect my children and just be there for them. They're wondering where their mom is. They're wondering what's going on." RR3, Vol. 001, p. 14, Lines 2-8

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When the trial court declined to hear Appellant's pleas for protection, it left her and the children vulnerable to retaliation at the hands of a man she repeatedly requested protection from. Keeping Appellant from being a mother to MCM and MAM is inflicting irreparable harm through extended emotional, and psychological abuse.

Appellant tried to tell the court that Appellee was abusive, and he was and is using the kids to hurt her, but the trial court would not give her a hearing or any explanation as to why. On April 20, 2021, the trial court did grant a hearing for the sole purpose of allowing Appellee to strip her of substantive due process rights via the vexatious litigant designation. See *Fernandez v. Brazil*¹ "general and discriminatory judicial ineffectiveness also creates a climate that is conducive to domestic violence, since society sees no evidence of willingness by the State, as the representative of the society, to take effective action to sanction such acts."

The economic abuse that prevented Appellant from leaving Appellee has not

¹ *Maria da Penha v. Brazil*, Case 12.051, Report No. 54/01, OEA/Ser.L/V/II.111 Doc. 20 rev. at 704 (2000)

stopped. Appellee denied Appellant equal access to justice through manipulating the judicial process. He cut her off from the 14-years of contributions to their estate when he denied the legitimacy of the informal marriage. Appellee harassed Appellant's attorney into withdraw through overly burdensome litigation demands, and then, weaponized the children against Appellant in depriving her access to them. Appellee's team of attorneys get credit too. They attempted to keep Appellant ignorant to their improper, unethical actions that led to the denial of her parental rights by robbing her of her due process rights because she would not stop fighting for her parental rights.

Appellant is not a vexatious litigant; she is a parent denied that fundamental right; she is a mom desperate to hold, see, or even speak to her children; and she is a pro se litigant forced to navigate our complicated court system to overcome the unjust roadblocks intentionally stacked before her by Appellee. Appellee did not deserve his requested relief; his request to shame Appellant on the public vexatious litigant list for confidentially requesting protection from his abuse was meant to deprive Appellant of constitutional rights, and the vexatious litigant designation is in fact unconstitutional as applied to her case and any other case arising in family law contexts, and as a law frequently used to silence calls for justice, it is facially unconstitutional as well.



In The Court of Appeals
Fifth District of Texas at Dallas

IN THE INTEREST OF M.C.M AND M.A.M.,
CHILDREN, et al.

VEXATIOUS MOM

COA — 05-21-00360 / TC — 366-51795-2021

1. The Trial Court Erred When Designating Appellant a Vexatious Litigant. Appellant is does not meet the statutory requirements for the discriminatory designation, judicial bias is the more likely reason she did not prevail in litigation, (in addition to ineffective assistance of counsel), and it was an abuse of discretion when the trial court refused to hear Appellant's requests for protection and instead placed her name on a public list to shame her for requesting such. "A trial court abuses its discretion when it acts in an arbitrary or unreasonable manner or when it acts without reference to any guiding principles." *Worford v. Stamper*, 801 S.W.2d 108, 109 (Tex. 1990) (per curiam); *Pickens v. Pickens*, 62 S.W.3d 212, 214 (Tex. App.-Dallas 2001, pet. Denied). Appellant has a right to request protection from the trial court; "to punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic sort." *United States v. Goodwin*, 457 U.S. 368, 372 (1982). The Supreme Court continued, "For while an individual

certainly may be penalized for violating the law, he just as certainly may not be punished for exercising a protected statutory or constitutional right.” Placing Appellant on a defamatory public list.²

2. Appellant has requested PO’s for her own protection because Appellee was abusive and posed threats to her, yet she has never requested that protective measures apply to the children. Appellee however claimed she did in his motion to designate her a vexatious litigant. After a year of Appellee’s extreme efforts to keep the children from having any contact with her, Appellant’s perspective has rightfully changed. The present circumstance in which Appellee is subjecting MCM and MAM to extreme, irreparable psychological harm without any empathy is reason enough to believe that Appellant’s pleadings for protection for her own safety were not only valid, but they should apply to the children as well. Restricting Appellant’s due process rights in this case was unreasonable. Regardless, Appellant understands at this point, whether or not the application is served or even seen, she does not have a right to access the Collin County Courts. There is an issue with jurisdiction in her case, and they cannot tell her what it is. Is warning a pro se litigant about the vexatious litigant law considered legal advise? It just makes sense that taking access

² Appellate courts and commentators have characterized the conduct of some vexatious litigants as “legal bullying” and as “an assault upon the judicial system.” The litigants’ conduct is marked by “a general disregard for decency and logic.” Litigation is used by them as “a cruel and effective weapon,” and the choice of targets often includes “anyone who has suffered the slightest contact” with the plaintiff. Vexatious litigants are contemptuous of rules and immune to most sanctions and are responsible for millions of dollars in losses attendant to the operation of the judicial system. Millions of dollars more in losses are suffered by those who are targeted. (Texas Judicial Counsel, 2010) ***Note, Defamation, Prejudicial**

to the courts away would at least require a higher burden, and is there not an affirmative defense?³

3. “Lawsuit” has a different meaning than “application.” According to legislation regarding modification, “A petition to modify an existing order affecting the parent-child relationship is a new lawsuit. Tex. Fam. Code Ann. § 156.004; Hudson, 931 S.W.2d at 338 n.6 (noting that the 1995 recodification of the Family Code refers to a modification actions as “a suit for modification” rather than “a motion to modify” which emphasized that the legislature intended the trial courts to continue to treat motions to modify as original lawsuits).” This differentiation of “suits” as opposed to “motions” implies that there is a difference. Appellant has filed one single lawsuit by and through an attorney. All other case actions were within the context of that suit. An “application” for a PO is not a separate lawsuit and not grounds to find an indigent party vexatious. Furthermore, legislative authorities did not intend for a party to an underlying lawsuit to be declared a vexatious litigant in an “associated case,” such as a protective order application; that is not how the legislature rolls in the state of Texas. In fact, the Texas Supreme court specifically promulgated the Guide-and-file Protective Order Application with the intent to expand the public’s access to justice; not to prevent it. This is an impediment to

³ Sec. 8.05. DURESS. (a) It is an affirmative defense to prosecution that the actor engaged in the proscribed conduct because he was compelled to do so by threat of imminent death or serious bodily injury to himself or another.

accessing the justice system that is in fact a violation of equal protection rights.

4. The underlying case and associated cases arose from the same lawsuit, and regardless of whether or not Appellant's attorney was forced to withdraw from the case, it was initiated by and through an attorney. Additionally, the Collin County Clerks instruct applicants to protective orders to file in a "different envelope," and they will force the PO application into the divorce cause. Even if this Court does not see Appellant's case/s as one, unified cause, this Court should also consider the nature of PO's and SAPCR's. Both are intended to be relitigated after being finally determined. Appellant has filed one lawsuit by and through an attorney.

5. Furthermore, Appellee was not entitled to equitable relief because he went to the court with unclean hands to request such. If PO applications are independent lawsuits in a divorce suit, then so are writ requests and TRO's. Appellee would have six additional vexatious suits as well as the initial SAPCR he filed and failed to serve. The harassing litigation that forced the withdraw of Appellant's attorney should also Appellee insisted on dragging Appellant through a brutal divorce and custody battle. He had unclean hands and his vexatious litigant designation request, upon which he arrived with his hands covered in dirt, should have been denied. This was a violation of Appellant's right to equal protection. Appellee was GRANTED the right to maintain pride in his traumatizing behaviors, and Appellant was ORDERED to live in fear that she will never be able to see her

children again. See *Order Designating Molly Wilkerson Vexatious Litigant*, CR, p. 48. “The court finds that there is not a reasonable probability that MOLLY L. WILKERSON will prevail in litigation against MARK MALDONADO.” This assertion is vague, discriminatory, and prejudicial especially considering Appellant’s request for protection and the implications this claim makes regarding Appellant’s fundamental parental rights.

6. The trial court misapplied the law when he found Appellant to be a vexatious litigant. “MOLLY L. WILKERSON in the seven-year period immediately preceding the filing of the Motion, has commenced, prosecuted, or maintained at least five litigations as a pro se litigant other than in a small claims court that have been finally determined adversely to her.” The misapplication of law arises with the words “immediately preceding” and “finally.” According to publicly available case records, see Appendix, p. 63-73. Appellants APO’s were not finally determined until April 20, 2021. This proves Appellant’s point that her pleas for protection from Appellee were ignored. Appellee filed his motion on April 14, 2021, and every single APO cited in his motion was finally determined AFTER his motion was filed, not preceding it. The trial court declined to hear evidence which could probably harm Appellant’s case presentation to this Court because other than showing the dates of closure in Appendix, p., Appellant cannot show this Court the dates of final determination or the fact that applications were never served or noticed to even

involve Appellee as a party.⁴

7. Additionally, Appellee's request to designate Appellant as a vexatious litigant only requests that the restrictions apply to Collin County, yet the order states that Appellant's filing restrictions apply in all courts in the state of Texas. It is an abuse of discretion to grant more relief that is requested. Also, evidence is a required consideration for this specific finding, and the trial court expressed that he would consider the pleading as it were and declined to consider argument and evidence:

"MS. JAMES: In regards to the motion for a declaration that Ms. Wilkerson is a vexatious litigant.

THE COURT: The Court will take notice of the filing as it were. And with regard to the evidence on the specific filings that have been denied, I think the Court can take judicial notice of that."

RR3, Vol. 001, p. 19, Lines 2-7

8. The unjust designation of the vexatious litigant statute is unconstitutional as applied in family law cases and even more specifically, cases involving parental rights. Texas Courts have found that it should not apply in cases arising from Tex. Crim. Code, and Florida (Florida Vexatious Litigant law, § 68.093), has found the designation is unconstitutional in cases arising under the family code. In Appellant's case, it served to restrict rightful access to the courts to defend her most precious right, the parent-child relationship. Appellant was denied filing multiple reasonable requests for possession and access rights which have

⁴ See *Yilmaz v. McGregor*, [265 S.W.3d 631, 637](#) (Tex.App.-Houston [1st Dist.] 2008, pet. denied) ("To be a 'party' to a lawsuit, one generally must be named in the pleadings and either be served, accept or waive service, or make an appearance. Merely being named in a petition as a defendant does not make one a 'party' to the lawsuit.").

served to delay relief to a 6-year-old little boy and an 8-year-old little girl. Additionally, she was denied filing requests necessary for appeal including a Bill of Exception, “To challenge exclusion of evidence by the trial court on appeal, the complaining party must present the excluded evidence to the trial court by offer of proof or bill of exception.” In re Estate of Miller, No. 05-06-01471-CV, 2008 WL 82530, *3 (Tex. App.—Dallas 2008, no pet. H.). See TEX.R.APP. P. 44.1.⁵ Additionally, in cause 05-21-00439-CV, Appellant was denied filing her writ of mandamus which is necessary because there is no adequate remedy on appeal.

9. The vexatious litigant designation is facially unconstitutional. Under no circumstance should a law exist that serves to “protect” government entities and other such parties, Appellee and his attorneys in this case, acting under color of law from citizen’s redress regarding fraud which is exactly what has happened with Tex. Civ. Prac. & Rem. Code §§ 11.001–.104. Also, see *United States v. Stevens*, 559 U.S. 460 (2010), in which the statute was facially unconstitutional because “No set of circumstances exists under which [the statute] would be valid” and “The statute lacks any ‘plainly legitimate sweep.’” This is after all what immunities are for. The judicial branch of the United States government exists to serve the people as do the other branches. As for “protecting” the public from vexatious litigants, there are such

⁵ Error requires reversal if it probably caused the rendition of an improper judgment or probably prevented appellant from properly presenting his case to the court of appeals. TEX.R.APP. P. 44.1(a); *Dueitt*, [180 S.W.3d at 741](#).

things as anti-slap laws, sanctions, and judicial discretion. The vexatious litigant designation serves to harm the people far more than it serves to protect them.

10. Specifically, the vexatious litigant law is a violation of the First Amendment Right to petition the Government for a redress of grievances,⁶ and it violates Fourteenth Amendment, substantive due process rights. The Amendment 14 Clause says that “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; no state shall deny to any person within its jurisdiction the equal protection of the laws, and the right of access to the courts.” Fortunately, the United States Constitution is not as vaguely stated as Tex. Civ. Prac. & Rem. Code §§ 11.001–.104. See *Reno v. American Civil Liberties Union*, 521 U.S.844 (1997), in which the court found “the challenged provisions were both vague and substantially overbroad;” also see substantial overbreadth determination in *Broadrick v. Oklahoma*, 413 U.S. 601, 615 (1973).

11. There are no terms on the vexatious litigant statute. It survives death, no clear burden of proof, no option to request dismissal, and no punishment range, and there are no clear standards. Since some counties do file PO’s into divorce and custody cases, isn’t that vague and overbroad? Also, see C. Davis Case, <https://www.txcourts.gov/media/747011/Chelsea-Davis.pdf> in which she was a

⁶ *Papachristou v. City of Jacksonville*, 405 U.S. 156 (1972); *Smith v. Goguen*, 415 U.S. 566 (1974). Generally, a vague statute that regulates in the area of First Amendment guarantees will be pronounced wholly void. *Winters v. New York*, 333 U.S. 507, 509–10 (1948); *Thornhill v. Alabama*, 310 U.S. 88 (1940).

young patent attorney who allegedly reported a top firm executive for sexual assault; she was disbarred and placed on the vexatious litigant list. She killed herself in February of last year, and her legacy will be that she was a liar who filed harassing litigation. The most tragic cases on that list are those with children though. When pro se litigants who have their children ripped from their lives litigate and try to learn the law, it is hope and faith that there is still justice. There is no need to take that from a grieving parent. The vexatious litigant statute is overbroad, harassing, unduly burdensome, meant to harass, delay, and annoy, and meritless -usually brought in bad faith. And, there is no way to defend from it.

III. CONCLUSION

Many vexatious litigants are lawyers and even judges. These individuals -as well as countless other vexatious litigants that are not professionals in law- are advocates for social justice. By and large, the public does not know the reality of the injustice that can occur in our court system, but a significant amount of vexatious litigants do. Many vexatious litigants have been subjected to power differentials that have destroyed their lives in one way or another, yet they have found the strength to stand up for themselves and for what is right. Appellant is fighting for her children. This is not vexatious; this is the only choice she has. This fight stands as defense for more than just Appellant's rights, because if it can happen to her, it can happen to

anyone.⁷ The vexatious litigant law is a tool to silence advocacy and to keep quiet those effected by inequity, injustice, and the reality of a broken system. It endangers the public and threatens the foundation of justice that is the United States Constitution. Vexatious litigants are forced to vexatiously litigate when they have to become their own heroes because the reality is, there just aren't enough. Noblesse Oblige is lost to unethical attorneys unchecked by oversight and narcissistic abusers, so as for those willing and able to stand up for their fundamental rights, they should not be branded into further inequity. A line must be drawn for the vexatious litigant designation at the very least, for children and families. This is not contempt; this is not the best interest of the child; this is prison, it is Hell; it is emotional pain so deep, it physically hurts; as for the babies that do not understand, they have lost a piece of their childhood. What is the going rate for the innocence of children?

PRAYER

Appellant prays the Honorable Justices of the 5th Court of Appeals reverse and render judgment vacating the unjust vexatious litigant designation entered in 366-51795-2021, on April 20, 2021.

⁷ See where public interest is involved Appellant has firm standing to raise the issue (9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 315, p. 326.) “The issue of judicial gender bias obviously involves both a public interest and the due administration of justice.” (Catchpole v. Brannon, supra, 36 Cal.App.4th at p. 244.)

Respectfully submitted,

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CERTIFICATIONS

CERTIFICATE OF OATH

My name is Molly Wilkerson. I am over the age of 18, and I am fully competent to execute this Certification. I am the Appellant in this case. I am the person filing the Brief. The Appendix and Record contain a true and correct copy of every document that is material to Appellant's claim for relief filed in the underlying proceedings. I certify that all orders, documents, communication, and filings from the court filed with the Appendix is a true and are authentic showing the matters complained of.

s/ *Molly Wilkerson*
Molly Wilkerson

CERTIFICATE OF COMPLIANCE

The word processing used to write this brief reports its length at 4,443 words including the contents that may be excluded under Rule 9.4(i)(1).

s/ *Molly Wilkerson*
Molly Wilkerson

CERTIFICATE OF SERVICE

This certifies that a true and correct copy of the foregoing Brief, Motion, and Appendix has been sent to Counsel for Appellee through the electronic service provider on December 17, 2021.

s/ Molly Wilkerson
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In The Court of Appeals
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1	Further Temporary Order..01/07/2021 ..CR SUP..66-50554-2020..692.NA
2.	Order Denying Permission for Vexatious Litigant to File Bill of Exception..... 05/17/2021 ...CR3 366-517951...04.....NA
3.	Order Declaring Molly L. Wilkerson a Vexatious Litigant 04/21/2021 ...48.....CR.....366-51795-2021.....NA
4.	Order on Molly Wilkerson's Application for Protective Order..... 04/21/2021 ...58...CR.....366-51795-2021.....NA
5.	Denied Request to file Mandamus..... 05-21-00242.....
6.	Court of Appeals Order to Abate..... 05-00242/00373/00360-21.....

CAUSE NO. 366-53554-2020

**IN THE MATTER OF
THE MARRIAGE OF**

**MOLLY L. WILKERSON
AND
MARK MALDONADO**

**AND IN THE INTEREST OF
M.C.M. AND M.A.M., CHILDREN**

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IN THE DISTRICT COURT

366TH JUDICIAL DISTRICT

COLLIN COUNTY, TEXAS

**ORDER DENYING PERMISSION FOR VEXATIOUS LITIGANT
TO FILE BILL OF EXCEPTION**

The local administrative district judge has reviewed the *Request for Permission for Vexatious Litigant to File Appellant's First Formal Bill of Exception for Appeal 05-21-00242-CV* attempted to be filed by Molly Wilkerson on 5/10/2021.

Molly Wilkerson is subject to a vexatious litigant prefilng order pursuant to Tex. Civ. Prac. & Rem. Code Ch. 11 entered in cause number 366-51795-2021 on April 21, 2021.

The local administrative judge has determined without a hearing that the request should be DENIED.

The Bill of Exception primarily contains a request to file Molly Wilkerson's own Findings of Fact and Conclusions of Law, attached as Exhibit E to the pleading. The vexatious litigant already had the opportunity to file her proposed findings of fact and conclusions of law before the trial court entered its own. Specifically, the following relevant pleadings appear in the court's record:

2/11/2021 – Molly Wilkerson filed her *Motion for Findings of Fact and Conclusions of Law Regarding Suit Affecting Parent-Child Relationship*. No proposed findings were included.

2/16/2021 – Molly Wilkerson filed her *Motion for Findings of Fact and Conclusions of Law Regarding the Matter of the Informal Marriage*. No proposed findings were included.

3/3/2021 – the Court granted Mark Maldonado's motion to strike Molly Wilkerson's *Motion for Findings of Fact and Conclusions of Law Regarding Suit Affecting Parent-Child Relationship*, because she attached a nude photo of the minor children to the pleading.

3/4/2021 – Molly Wilkerson filed her *Motion for Findings of Fact and Conclusions of Law Regarding Suit Affecting Parent-Child Relationship*. No proposed findings were included.

3/16/2021 – Molly Wilkerson filed her *Notice of Past-Due Findings of Fact and Conclusions of Law Regarding the Matter of the Informal Marriage*. No proposed findings were included.

3/23/2021 – Molly Wilkerson filed her *Notice of Past-Due Findings of Fact and Conclusions of Law Regarding Suit Affecting Parent-Child Relationship*. No proposed findings were included.

4/5/2021 – the Court entered its *Findings of Fact and Conclusions of Law*.

4/19/2021 – Molly Wilkerson filed her *Objection to and Motion to Strike Respondent's Proposed Findings of Facts and Conclusions of Law; and Motion for Sanctions*. She refers in the motion to her proposed findings of fact and conclusions of law purportedly attached as Exhibit A. Exhibit A appears to be a copy of the court's findings, with highlighted portions described by the movant as "All highlighted statements are lies and slander." No other proposed findings were attached.

4/21/2021 – the Court entered an order overruling these objections and denying Molly Wilkerson's requested findings.

It does not appear that this request to file a formal bill of exception has merit and has not been filed for the purposes of harassment or delay.

IT IS ORDERED that the district clerk shall not file the proposed *Request for Permission for Vexatious Litigant to File Appellant's First Formal Bill of Exception for Appeal 05-21-00242-CV*.

SIGNED 5/17/2021.

/s/ Judge Emily Miskel
Local Administrative District Judge

CASE NO. 366-53554-2020

**IN THE MATTER OF
THE MARRIAGE OF**

**MOLLY L. WILKERSON
AND
MARK MALDONADO**

**AND IN THE INTEREST OF
M.C.M. AND M.A.M.,
CHILDREN**

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IN THE DISTRICT COURT

366th JUDICIAL DISTRICT

COLLIN COUNTY, TEXAS

**APPELLANT'S FIRST FORMER BILL OF EXCEPTION FOR APPEAL 05-21-
00242-CV**

On this date, April 5, 2021, the Court considered Respondent, Mark Maldonado's *Proposed Finding of Facts and Conclusions of Law*, attached herein as *Exhibit A*. While submitted untimely - Final Trial was January 27, 2021, there is reason to believe that such document was still added to the official court record. OC Gracen Daniel's Responded to Court Request for "*Word Version*;" *Exhibit B*. The records were sealed upon Opposing Counsel's request on April 1, 2021 -*see Exhibit C*.

Petitioner Molly L. Wilkerson Immediately objected to the FFCL submitted and filed a subsequent motion: *PETITIONER'S OBJECTION TO AND MOTION TO STRIKE RESPONDENT'S PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW; AND MOTION FOR SANCTIONS*; attached herein as *exhibit D*; as well as her own *Proposed Findings of Facts and Conclusions of Law*, submitted on April 20, 2021, were immediately returned without explanation. *See Exhibit D*.

Appellant/Petitioner, Molly Wilkerson requests the Court take necessary actions to correct Findings and Facts and Conclusions of Law on Record according to actual findings rendered at trial and with sufficient evidentiary support in accordance with TRAP 33.2.

Necessary Action in Preserving Appeal Record

33.2. Formal Bills of Exception - To complain on appeal about a matter that would not otherwise appear in the record, a party must file a formal bill of exception.

33.2 (c)(1) The complaining party must first present a formal bill of exception to the trial court.

Respectfully submitted,

By: /s/
Molly L. Wilkerson
Litigant, Pro se

218 Castleridge Dr.
Little Elm, TX 75068
(214) 636-4719 (Tel)
Email: missmolly2020@aol.com

CAUSE NO. 366-53554-2020

IN THE MATTER OF
THE MARRIAGE OF

MOLLY L. WILKERSON
AND
MARK MALDONADO

AND IN THE INTEREST OF
M.C.M. AND M.A.M., CHILDREN

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IN THE DISTRICT COURT

366TH JUDICIAL DISTRICT

COLLIN COUNTY, TEXAS

**ORDER DENYING PERMISSION FOR VEXATIOUS LITIGANT TO FILE
MOTION TO CORRECT, REFORM, OR CLARIFY FINAL SAPCR**

The local administrative district judge has reviewed the *Request for Permission for Vexatious Litigant to File Motion to Correct, Reform, or Clarify Final SAPCR* attempted to be filed by Molly Wilkerson on 6/28/2021.

Molly Wilkerson is subject to a vexatious litigant prefilng order pursuant to Tex. Civ. Prac. & Rem. Code Ch. 11 entered in cause number 366-51795-2021 on April 21, 2021.

The local administrative judge has determined without a hearing that the request should be DENIED.

The proposed *Motion to Correct, Reform, or Clarify Final SAPCR* was attempted to be filed 117 days after the judgment was signed.

It does not appear that the request has merit and has not been filed for the purposes of harassment or delay.

IT IS ORDERED that the district clerk shall not file the proposed *Request for Permission for Vexatious Litigant to File Motion to Correct, Reform, or Clarify Final SAPCR*.

SIGNED 7/2/2021.

/s/ Judge Emily Miskel
Local Administrative District Judge

**NOTICE: THIS DOCUMENT
CONTAINS SENSITIVE DATA**

CASE NO. 366-53554-2020

**IN THE MATTER OF
THE MARRIAGE OF**

**MOLLY L. WILKERSON
AND
MARK MALDONADO**

**AND IN THE INTEREST OF
M.C.M. AND M.A.M., CHILDREN**

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IN THE DISTRICT COURT

366th JUDICIAL DISTRICT

COLLIN COUNTY, TEXAS

**MOTION TO CORRECT, REFORM, OR CLARIFY FINAL ORDER IN SUIT
AFFECTING PARENT-CHILD RELATIONSHIP**

TO THE HONORABLE COURT:

Petitioner, MOLLY L. WILKERSON, files this Motion to Correct, Reform, or Clarify Final Order in Suit Affecting Parent-Child Relationship signed on March 3, 2021 pursuant to Rule 329b of the Texas Rules of Civil Procedure, and in support respectfully states as follows:

UNPERRFORMABLE, UNENFORCEABLE CONDITIONS

1. On January 27, 2021, this suit on the Matter of the Marriage was tried before the Court. The Court made its rulings on the record. On March 3, 2021, the Court signed a Modified Final Order in Suit Affecting Parent-Child Relationship (the "Order").

2. Certain provisions were impossible to perform: having 5,000 dollars within less than a week's notice to schedule a psychological evaluation, establishing Respondent, MARK MALDONADO'S portion of registration at Hanna's House, finding a new anger management course by the passed date of February 15, 2021, and establishing visitation at a facility that is not operational.

3. Other provisions are impossible to enforce because Respondent is not willing to allow visitation. As long as visitation is conditioned on his approval, Petitioner will not be permitted ANY visitation or communication with the children. Respondent has instructed his attorneys to

cease all communication with Petitioner unless ordered by the Court (see Exhibit A).

4. In light of Petitioner's compliance with orders: drug testing, counseling, anger management, BIPP, and scheduling the psychological evaluation, Petitioner requests corrections or clarification as to the requirements and conditions of visitation.

PRAYER

WHEREFORE, Petitioner respectfully requests the Court to amend, reform or clarify the Final Order in Suit Affecting Parent-Child Relationship by signing the order attached hereto as Exhibit B, or in the alternative set a hearing to establish workable terms of possession and access. Petitioner prays for all other and such further relief, at law or in equity, to which she may be justly entitled.

Respectfully submitted,

/s/ *Molly Wilkerson*

Molly Wilkerson
missmolly2020@aol.com



From: cjames@cowlesthompson.com,
To: missmolly2020@aol.com,
Cc: tmallers@cowlesthompson.com, gdaniel@cowlesthompson.com, tandersen@cowlesthompson.com
Subject: Re: Conditions Precedent
Date: Fri, Apr 23, 2021 7:43 am

Molly -

Mr. Maldonado will not agree to a provider other than Benjamin Albritton, the provider in the order.

Please know that we have been instructed not to respond to the emails you send unless we are required by applicable law, rule, or court order to do so. This case is CLOSED. It costs our client money for me and/or my colleagues to read and respond to your emails. The Final Orders are very clear as to your requirements. Mr. Maldonado will not be agreeing to change the requirements. Continuing to send emails will not change that.

Again, I would very strongly suggest you obtain an attorney to advise you with respect to these matters. We represent Mr. Maldonado, so we cannot give you legal advice.

Thank you.

Claire James

Sent from my iPhone.

On Apr 23, 2021, at 12:18 AM, Molly L Wilkerson <missmolly2020@aol.com> wrote:

I have come up with three affordable solutions for the mental health evaluation your client is requesting:

1) TEXAS CARE CENTER

Phone: 1-888-98TODAY,
(1-888-988-6329)

2) UNT - Psychology Clinic - Terrill Hall - 1611 West Mulberry - Room 171 – Denton – (940) 565-2631
Individual, marital, family, group and play therapy. Psychological evaluations. Sliding scale fees. Open Mon-Thurs. 8am-8pm and Fri. 8am-5pm;

3) Child and Family Guidance Center – Dallas - (214) 351-3490 - Mesquite - (972) 285-8834 – Plano – (972) -612.5989 Services include: clinical assessment, individual counseling, case management, psychiatric evaluation/diagnosis/medication management, community-based rehabilitative and skills training for adults and children, family and community education program. Sliding fee scale or insurance.

Let me know if any of these will work and once again, whether or not he will apply the strict deadline passed and try to deny visitation regardless. Thank you!

Molly Wilkerson

-----Original Message-----

From: Molly L Wilkerson <missmolly2020@aol.com>
To: cjames@cowlesthompson.com <cjames@cowlesthompson.com>
Sent: Thu, Apr 22, 2021 1:17 pm
Subject: Re: Conditions Precedent

There is a Blue Star Diagnostics, same company, located in Frisco. Ask him if that would be acceptable. I think it is a reasonable compromise. I am not sure why that is an issue. I am not sure why I am even taking them to begin with considering you people lied and said I was on drugs, and was not taking drug tests. Well, I

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was taking tests, they are noticed to the court, and I will continue to report lies that are presented to the Judge to the State Bar. You also claimed I was not doing counseling; I have email documentation notifying you that I was, and I noticed my attendance to the court.

I will research affordable options for a psych. evaluation and present them for your consideration. The other concerns were the dates. You brought anger management up again and that it was supposed to be scheduled by 2/15 -well that date has passed, and I signed up for one, wasted 50 dollars, and this matter was never clarified. I do not know how you want this resolved. Same issue with the psych eval. I got Orders on 3/12, and I was expected to come up with 5k in three days? If 3/15 has already passed, what are your suggestions for proceeding? Are you going to deny visitation if an eval. is done because the date has passed? So, I think that sums up with what I mean by "come up" with solutions. Thanks in advance!

Molly Wilkerson

-----Original Message-----

From: James, Claire <cjames@cowlesthompson.com>

To: 'Molly Wilkerson' <missmolly2020@aol.com>

Cc: Daniel, Gracen <gdaniel@cowlesthompson.com>; Mallers, Tony <tmallers@cowlesthompson.com>;

Andersen, Trechelle L <tandersen@cowlesthompson.com>

Sent: Thu, Apr 22, 2021 12:49 pm

Subject: RE: Conditions Precedent

Molly -

We are in receipt of your emails requesting Mr. Maldonado to agree to modify the Final Order signed on March 3, 2021. Specifically, my understanding is you are requesting Mr. Maldonado to agree (1) that the required drug tests occur at a facility of your choosing and (2) that the psychological evaluation be completed by a professional of your choosing. Mr. Maldonado does not agree to these requests.

With respect to your question about whether Mr. Maldonado has "come up with solutions" as to when and how you can see the children, I'm not sure what you mean. I would refer you to the Final Order signed on March 3, 2021.

Thank you,
Claire

-----Original Message-----

From: Molly Wilkerson <missmolly2020@aol.com>

Sent: Thursday, April 22, 2021 11:49 AM

To: James, Claire <cjames@cowlesthompson.com>; Daniel, Gracen <gdaniel@cowlesthompson.com>;

Mallers, Tony <tmallers@cowlesthompson.com>

Subject: Re: Conditions Precedent

Hello,

As you know, the restrictive provisions in your Orders are not possible to carry out. Has your client come up with any solutions as to when and how I can see the children. I'll be in contact again soon. Thanks!

Sent from my iPhone

> On Apr 21, 2021, at 11:11 AM, Molly Wilkerson <missmolly2020@aol.com> wrote:

>

CASE NO. 366-53554-2020

IN THE MATTER OF	§	IN THE DISTRICT COURT
THE MARRIAGE OF	§	
	§	
MOLLY L. WILKERSON	§	
AND	§	366th JUDICIAL DISTRICT
MARK MALDONADO	§	
	§	
AND IN THE INTEREST OF	§	
M.C.M. AND M.A.M., CHILDREN	§	COLLIN COUNTY, TEXAS

**MOTION TO VACATE IMPROPER ORDERS AND ENTER CORRECTED
ORDERS NUNC PRO TUNC**

Comes now, MOLLY WILKERSON, Petitioner, in the above-captioned cause, and respectfully moves that this Court grant an order authorizing the Clerk to enter on the minutes of this Court a Corrected Order in Suit Affecting the Parent-Child Relationship and a Corrected Protective Order *nunc pro tunc*, and as grounds for this Motion will show the following:

**I. VACATE IMPROPER ORDERS AND ENTER CORRECTED ORDERS
NUNC PRO TUNC**

Final Order in Suit Affecting Parent-child Relationship. A trial of this cause was held on January 27, 2021, and orders were rendered on record, in order form, and finally disposed of all matters before the Court, (*See Exhibit A:*). -Link to Exhibit- *The Final Order in Suit Affecting the Parent-child Relationship* was reduced to writing by opposing counsel and signed by Judge Nowak on March 3, 2021. The order signed is not reflective of the Final Order Rendered following trial. Because of the error, enforceable possession and access provisions were omitted, and other permanent injunctions were added, (*See Exhibit B: Order in SAPCR*). -Link to Exhibit- The orders signed violate Petitioner's constitutionally protected rights and should be corrected to reflect the orders

rendered. Make-up time with the children should also be added to reflect the time taken from Petitioner since orders were final on January 27, 2021.

Final Protective Order. Mark Maldonado, (Petitioner in PO case), following an incident that occurred on February 11, 2021, reported to Richardson Police that Molly Wilkerson had strangled him at a restaurant. He had refused to allow Court ordered visitation since final trial -he was not even allowing phone access. On this day however he prompted Petitioner to come celebrate their daughter's birthday. He approached Petitioner and their daughter outside after they left an argument at the dinner table. Petitioner was sitting near a fountain holding her daughter when respondent approached them, grabbed their daughter by the arm, and yanked her towards his mother who was standing nearby waiting. Petitioner rushed towards their daughter who was fighting to get away from Respondent and his mother when Respondent pushed her, motioned towards a 9mm Glock strapped to his hip, and told her that she was not allowed to be alone with the children and that he would make sure she never saw the children again. Meanwhile, Respondent's mother proceeded inside with their daughter and called 911 to report an attempted abduction of the children by Petitioner.

There were no videos, yet Respondent claimed on record that there was footage from the restaurant, that he had recorded the incident himself, and that, despite the supposed restaurant full of people that could testify, there was only one witness that could not consistently recall where he was standing when he witnesses the incident or even what he saw, and he has sense refused to participate in the investigation. Upon suggestions made by Officer Garcia during questioning, Respondent claimed he could not breath when Petitioner had an arm around him. Petitioner was in shock and outside the

restaurant screaming that he would not get to keep her children from her when officers arrived. Petitioner declined to explain to police everything that had just happened and was taken into police custody. She had a knot on her head and was going to accept medical care, but she decided to decline that too in hopes that she could be done with the trauma of the evening and go take care of her puppy. She realized shortly after that she would not be released and that she was being charged with a third-degree felony -family violence, strangulation/impeding breath. Respondent had no signs that an altercation had occurred, and he stated he did not need medical care.

The next day, Petitioner was released on bail, and a 61-day EPO was issued against her that left the children out. Respondent sent his lead counsel, George Mallers to seek an emergency ex parte PO from district Court to include the children without any clear and present danger that would require such. In fact, at the time of the altercation, Petitioner had her own protective order application on file with the Court. It was ignored as the other two she requested during the pendency of the divorce had been.

Throughout the pendency of the suit for divorce and the two years prior, there were no accusations raised regarding Petitioner as an abusive spouse or mother, but she had reported Mr. Maldonado's abusive behavior. The records of these request however were sealed in violation of Collin County's Local Rules. The sealed APO's contain documentation of previous threats against Petitioner with a 9mm Glock as well as police reports. They do not contain any sensitive information about children that would justify their sealing. Also not justified is the modification of the *Final SAPCR* to include a finding that Petitioner had a history or pattern of committing family violence without any modification suit on file. This information as well as libel signed off on in *Findings of*

Fact and Conclusions of Law have been used by OC to harass the Dallas County Prosecutor into pursuing the charges against Petitioner. Furthermore, the PO against Petitioner was issued after the trial and orders rendered in the divorce case, not during the dependency or two years prior, and the Court stated in his ruling that he was leaving the children out, (see *Exhibit C*, ruling on *Final PO -RR @ pg.4, Line 9*). -Link to Exhibit- The Court did strike the children's names from the PO he signed, but provisions at the end of the order that include the children remain, see *Final Protective Order* signed March 3, 2021 attached as *Exhibit D*). -Link to Exhibit-

The following actions should be taken to correct the erroneous Final Protective Order and Final SAPCR order:

1. Attached herein as *Exhibit E*, -Link to Exhibit- are orders that properly track the SAPCR orders rendered at trial. The SAPCR orders entered on March 3, 2021 should be vacated, and the attached order should be signed.
2. The *Final Protective Order* entered on March 3, is void and should be vacated, or in the alternative, the order should be corrected nunc pro tunc to reflect the intended order which leaves the children out as provided in the attached *Exhibit F*, the *Proposed Final Protective Order*. -Link to Exhibit-

II. LAW APPLIED TO FACTS

Finality of Orders Rendered. The rendition of the trial court's decision, whether in open court or by official document of the court, is the critical moment when the judgment becomes effective. The Final SAPCR Orders were rendered in accordance with the Court's findings following trial on the merits. Petitioner found the orders rendered to be harsh and confusing, but the orders were final. The fact that ex parte requests to alter

temporary conservatorship just 19 days before final trial was not available to Petitioner until receiving records for appeal; regardless, the bias orders were in fact final, and further restrictions via modification would require a modification suit. The signature of the trial court upon the writing is merely a ministerial act of the court conforming to the provision of Rule 306a(2) of the Texas Rules of Civil Procedure calls for “all judgments, decisions and orders of any kind to be reduced to writing and signed by the trial judge with the date of signing stated therein.” The trial judge’s signature upon the written judgment does not affect or change the date of the rendition or the judgment. A judgment is “entered” when it is recorded in the minutes of the trial court by a purely ministerial act of the trial court’s clerk, thereby providing enduring evidence of the judicial act. *Henry v. Cullum Cos.*, 891 S.W.2d 789, 792 (Tex. App.—Amarillo 1995, writ denied)

Modification. There was no petition before the Court to modify conservatorship when orders were modified on two different occasions. Petitioner learned of yet another ex parte pleading titled, *Amended Motion to Enter Final Orders*, after receiving Court records from the Fifth Court of Appeals on May 17, 2021. Without proper service of a lawsuit intensioned to modify conservatorship amongst other things, the Court abused its discretion in modifying final orders. In *P.H.D. v. R.R.D.*, 46 a.3d 817 (Pa.Super. 2012), the trial court was found to have abused its discretion by *sua sponte* altering an existing custody order despite not having the issue of a custody modification before the court. The superior court noted: “The custody court does not possess some ongoing, continuous supervisory role over the life of a family, however broken that family may be. Rather, the court’s jurisdiction is triggered only when invoked, and then only upon proper petition and notice.”

Nunc Pro Tunc is the Appropriate Remedy. As the Texas Supreme Court in *Coleman v. Zapp* long ago explained:

The judgment of a court is what the court pronounces. Its rendition is the judicial act by which the court settles and declares the decision of the law upon the matters at issue. Its entry is the ministerial act by which an enduring evidence of the judicial act is afforded. The failure of the minute entry to correctly or fully recite what the court judicially determined does not annul the act of the court, which remains the judgment of the court notwithstanding its imperfect record. Hence it is that from the earliest times the power of correcting or amending their records, by nunc pro tunc entry, so as to faithfully recite their action, has been possessed and exercised by the courts as an inherent right, independent of any statute, and, in the absence of express provision, unaffected by limitation. **If a court is made aware that, through mistake or omission, its records do not recite its judgment as actually rendered, we do not doubt that it is not only the right but the duty of the court, of its own motion and after due notice to the parties, to order the proper entry.** The nature of a judicial record, the accuracy of which is the peculiar concern of the court and which for that reason and to that extent remains within the court's control, forbids that its correctness as an expression or evidence of judicial action should depend upon the inauguration of a proceeding by the parties, and it is therefore plain that such a proceeding only invokes an authority which the court may exercise of its own accord.

105 Tex. 491, 494, 151 S.W. 1040, 1041 (Tex. 1912) (Citations Omitted).

Furthermore, When confronting the question whether a judgment may be modified by an order nunc pro tunc a trial court must determine if the change from the judgment first announced was a clerical error or a judicial modification. *Kostura v. Kostura*, 469 S.W.2d 196, 198 (Tex.Civ.App.--Dallas 1971, writ ref'd n.r.e.). A clerical error is a discrepancy between the entry of a judgment in the record and the judgment that was actually rendered. *Andrews v. Koch*, 702 S.W.2d 584, 585 (Tex. 1986) (per curiam). On the other hand, a judicial error arises from a mistake of law or fact that requires judicial reasoning to correct. *Butler v. Continental Airlines, Inc.*, 31 S.W.3d 642, 647 (Tex.App.--Houston [1st Dist.] 2000, pet. denied). A judgment nunc pro tunc allows a

trial court to correct a clerical error in the judgment after expiration of the trial court's plenary power. *Escobar v. Escobar*, 711 S.W.2d 230, 231-32 (Tex. 1986); Tex. R. Civ. P. 316. But such power does not extend to correction of a judicial error made in rendering a final judgment. *Escobar*, 711 S.W.2d at 231. Following expiration of its plenary power, a trial court may correct the entry of a final written judgment that incorrectly states the judgment actually rendered. *Id.* at 231-32.

III. PRAYER

Wherefore, Petitioner respectfully moves the Court to enter the corrected SAPCR order nunc pro tunc that properly tracks the orders rendered following trial on the merits. She prays the Court grant make-up time to remedy the last seven months of her forced absence from the children's lives. Petitioner further requests the Court vacate the protective order, or in the alternative, enter a corrected protective order nunc pro tunc that leaves the children out as stated by the Court in its ruling. Petitioner prays the Court grant this relief and any other relief deemed necessary in law and in equity.

Respectfully Submitted,

/s/ Molly Wilkerson
Molly Wilkerson, Petitioner Pro se
missmolly2020@aol.com

CERTIFICATE OF SERVICE

I certify that a true copy of the above was served on Mark Maldonado's Attorneys of record as listed below in accordance with the Tex. Rules of Civ. Proc. on July 18, 2021.

Attorneys for Mark Maldonado

G. Tony Mallers

Texas Bar No. 12861500

tmallers@cowlesthompson.com

Claire E James

Texas Bar No. 24083240

cjames@cowlesthompson.com

Gracen M. Daniel

Texas Bar No. 24116248

gdaniel@cowlesthompson.com

/s/ Molly Wilkerson

Molly L. Wilkerson /Pro se

Phone: 214-636-4719

Email: missmolly2020@aol.com

Address: 3210 White Spruce Dr.

Frisco, TX 75068

CAUSE NO. 366-53554-2020

IN THE MATTER OF
THE MARRIAGE OF

MOLLY L. WILKERSON
AND
MARK MALDONADO

AND IN THE INTEREST OF
M.C.M. AND M.A.M., CHILDREN

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IN THE DISTRICT COURT

366TH JUDICIAL DISTRICT

COLLIN COUNTY, TEXAS

ORDER DENYING PERMISSION FOR VEXATIOUS LITIGANT TO FILE
MOTION TO VACATE IMPROPER ORDERS AND
ENTER CORRECTED ORDERS NUNC PRO TUNC

The local administrative district judge has reviewed the *Motion to Vacate Improper Orders and Enter Corrected Orders Nunc Pro Tunc* attempted to be filed by Molly Wilkerson on 7/9/2021.

Molly Wilkerson is subject to a vexatious litigant prefilng order pursuant to Tex. Civ. Prac. & Rem. Code Ch. 11 entered in cause number 366-51795-2021 on April 21, 2021.

The local administrative judge has determined without a hearing that the request should be DENIED.

The proposed *Motion to Vacate Improper Orders and Enter Corrected Orders Nunc Pro Tunc* is a new litigation requesting that the court vacate the final judgment signed on 3/3/2021 and relitigate the fact issues. This motion was attempted to be filed 128 days after the judgment was signed. The motion does not identify clerical errors capable of being corrected by a judgment nunc pro tunc.

It does not appear that the request has merit and has not been filed for the purposes of harassment or delay.

IT IS ORDERED that the district clerk shall not file the proposed *Motion to Vacate Improper Orders and Enter Corrected Orders Nunc Pro Tunc*.

SIGNED 7/9/2021.

/s/ Judge Emily Miskel
Local Administrative District Judge

CAUSE NO. _____

IN THE INTEREST OF

M.C.M. AND M.A.M.,
CHILDREN

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IN THE DISTRICT COURT

366TH JUDICIAL DISTRICT

COLLIN COUNTY, TEXAS

**ORDER DENYING PERMISSION FOR VEXATIOUS LITIGANT
TO FILE NEW LITIGATION**

The local administrative district judge has reviewed the *Emergency Ex Parte Application for Writ of Habeus Corpus and Writ of Attachment* attempted to be filed by Molly Wilkerson on 6/5/2021.

Molly Wilkerson is subject to a vexatious litigant prefiling order pursuant to Tex. Civ. Prac. & Rem. Code Ch. 11 entered in cause number 366-51795-2021 on April 21, 2021.

The local administrative judge has determined without a hearing that the request should be DENIED.

It does not appear that requests have merit and have not been filed for the purposes of harassment or delay.

IT IS ORDERED that the district clerk shall not file the proposed *Emergency Ex Parte Application for Writ of Habeus Corpus and Writ of Attachment*.

SIGNED 6/7/2021.

/s/ Judge Emily Miskel
Local Administrative District Judge

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA

CASE NO. _____

IN THE INTEREST OF §
M.C.M. AND M.A.M.,
CHILDREN

§
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IN THE DISTRICT
COURT

§

JUDICIAL
DISTRICT

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COLLIN COUNTY,
TEXAS

**EMERGENCY EX PARTE APPLICATION FOR WRIT OF HABEAS CORPUS AND
WRIT OF ATTACHMENT**

Relator, Molly Wilkerson Mother files this Emergency Ex Parte Application for Writ of Habeas Corpus and for Writ of Attachment pursuant Texas Family Code Sections 157.372, 105.001(c), and 157.374, requesting the Court to compel the return of the children the subject of this suit for the reasons described below:

I. RELEVANT FACTS

1. Father of the children Mark Maldonado has been holding the children hostage for five and half months now. There was an underlying case in Collin County filed last June for a divorce. The Court found the marriage was void and subsequently lost subject matter jurisdiction over the parties and the SAPCR that automatically attaches to the divorce.
2. There are no legitimate orders in place for conservatorship or possession and access, Relator has not given up possession of the child for six months before the filing of this Petition, there is no suit affecting the parent-child relationship (SAPCR) pending, and the child is being illegally kept from Relator by Respondent.

- a.** - If a SAPCR is pending at the time the divorce action is filed, the SAPCR must be transferred to the court in which the divorce action is filed. FAM. §§ 6.407(a), 103.002(b)
 - b.** TEX.FAM.CODE ANN. § 155.001(b)(1)(providing that a voluntary or involuntary dismissal of a suit affecting the parent-child relationship does not create continuing, exclusive jurisdiction).
- 3. Mark Maldonado has abused the judicial process, and falsified facts to keep mother and children apart for five and half months now. Mother has attempted to contact the children, she has requested welfare checks, and he evades all rightful possession and access to the children.
- 4. On May 8, 2021, Respondent threatened Relator by telling her brother he would leave with the children. Relator has personal knowledge of his ties to Puerto Rico and taking the children away could cause significant custody barriers and further irreparable harm to the children.
- 5. Following the trial on the divorce, Respondent has unlawfully kept the children from Relator for months now.
- 6. Father has brought extreme emotional and psychological stress to the children by causing the children to wonder what became of the mother that raised them thus causing them irreparable emotional and psychological harm.
- 7. Father has been demonstrating signs of serious mental illness now, and for the children to remain isolated with him, puts them in serious danger.
- 8. Mother is fearful for the physical safety of the children as well based on her own previous experiences with domestic abuse from father over a period of 14-years, economic abuse in his threats to make her leave with nothing if she was to leave him, judicial abuse over the

last year, and now the worst emotional abuse imaginable to a parent, the alienation of the parent-child relationship.

II. APPLICATION FOR WRIT OF HABEUS CORPUS

9. Under Chapter 157 of the Texas Family Code, the children are being illegally kept from Relator by the respondent, and there is an immediate question about the children's welfare. TEX. FAM. CODE § 157.372(a). A court may order any appropriate temporary orders if there is a serious, immediate question concerning the welfare of a child, notwithstanding any other provision of subchapter H of Chapter 157 of the Texas Family Code. TEX. FAM. CODE § 157.374.
10. Here, mother is presently entitled to possession of the children, MCM and MAM. There are no legitimate Court orders, and the children's welfare is of an immediate concern.
11. The children are illegally restrained by Father, Mark Maldonado, who resides at [REDACTED]. Process should be served on Father at that address.
12. Mother requests the Court to issue a writ of habeas corpus commanding Father to produce the children before the Court. Because Father is likely not to abide by the Writ of Habeas Corpus, and because there is a genuine and substantial risk of imminent abduction or concealment, as described above, a writ of attachment should issue as described further below. Paragraphs 1 through 15 are incorporated herein by reference.

III. APPLICATION FOR WRIT OF ATTACHMENT

13. Paragraphs 1 through 12 are incorporated herein by reference. Texas Family Code § 105.001 permits the Court to order attachment of the children and issue a writ commanding any sheriff or constable to attach the body of the children and deliver them to a designated place when attachment is necessary to protect the children.

14. Based on the facts described above, Mother requests the Court to attach the bodies of the children, [REDACTED] and [REDACTED], and order law enforcement to deliver them to Mother at her residence because father, Mark Maldonado's continued possession of the children will create and is creating a serious, immediate threat to the children's emotional well-being and potentially, to their physical safety.
15. Further, and in addition to, Mother would show that Father will hide the children and/or remove them from the state to keep them from ever having a relationship with their mother. He has recently threatened to do so. Father has falsified court documents, he has claimed false criminal charges against mother, he refuses to let any family check on the children; he has called the police if any attempted contact was made; he took MAM's computer when he found out Mother and her were sending messages to each other; he has threatened Mother to drop her appeal or never see the children again; he has random strangers living with him; he is willing to look at his children begging to see their mom and speak to their mom and deny any and all communication and access because of his own hatred and/or mental illness issues. Mark Maldonado is the most dangerous type of abuser. He is willing to sacrifice his own children's psychological well-being, as of now and for the rest of their lives, to further punish their mother for attempting to escape his control and abuse. He is willing and able to manipulate almost anyone, and he is alienating his children from their mother via abuse of the judicial process to feed his narcissistic ego.
16. Therefore, Mother asks the Court to immediately issue a writ of attachment commanding any sheriff or constable within the state of Texas to take the children and deliver the children safely into the possession of Mother/Relator, Molly Wilkerson at [REDACTED]

██████████ because, as described above, the children will suffer immediate and irreparable harm if the Court does not do so.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Relator, Molly Wilkerson requests the Court to issue a Writ of Habeas Corpus, order attachment of the body of the children, and Issue a Writ of Attachment commanding any sheriff or constable to attach the body of the children and deliver them to his residence. Molly Wilkerson further requests the Court to render additional temporary orders pending appellate review as provided by Tex. Fam. Code Ann. § 109.001, and for such relief to which this Court she may be justly entitled.

Respectfully submitted,

/s/ *Molly Wilkerson*

Molly L. Wilkerson

missmolly2020@aol.com

213-636-4719

218 Castleridge Dr.

Little Elm, TX 75068

SWORN VERIFICATION

I am Movant and the mother of the children the subject of this suit, and I have reviewed the foregoing Emergency Ex Parte Application for Writ of Habeas Corpus and Writ of Attachment. I have personal knowledge of the facts and allegations stated herein of the foregoing Request for Writ of Habeas Corpus and Writ of Attachment, and they are true and correct.

My name is Molly Wilkerson, my date of birth is September 16, 1983, and my address is 218 Castleridge Dr. Little Elm, TX 75068. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Collin County, Texas on June 5, 2021.

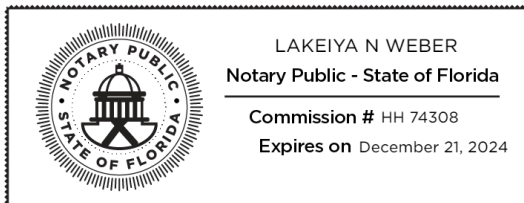
Molly Wilkerson
Molly Wilkerson

STATE OF FLORIDA / COUNTY OF HILLSBOROUGH

Sworn to (or affirmed) and subscribed before me

this 6th day of Jun, 2021, by Molly Wilkerson

who provided driver license as identification.



Lakeiya N Weber (Signature)

Lakeiya N Weber (Notary's Name printed)

Notarized online using audio-video communication

CAUSE NO. 366-53554-2020

IN RE
MOLLY WILKERSON

AND

IN THE INTEREST OF
M.C.M. AND M.A.M., CHILDREN

§
§
§
§
§
§
§

IN THE DISTRICT COURT

366TH JUDICIAL DISTRICT

COLLIN COUNTY, TEXAS

**ORDER DENYING PERMISSION FOR VEXATIOUS LITIGANT TO FILE
PETITION FOR WRIT OF MANDAMUS**

The local administrative district judge has reviewed the *Petition for Writ of Mandamus* attempted to be filed in the Court of Appeals by Molly Wilkerson on 6/14/2021, and later submitted to this judge on 11/12/2021.

Molly Wilkerson is subject to a vexatious litigant prefilng order pursuant to Tex. Civ. Prac. & Rem. Code Ch. 11 entered in cause number 366-51795-2021 on April 21, 2021.

The local administrative judge has determined without a hearing that the request should be DENIED.

The proposed *Petition for Writ of Mandamus* is a new litigation requesting that the court vacate three final judgments. Page 1 of the Petition refers to three cause numbers: 366-53554-2020, 366-50778-2021, and 366-51795-2021. The Prayer on page 84 of the Petition refers to three final judgments: “the SAPCR signed on March 3, 2021, the protective order signed in favor of Mark Maldonado on March 3, 2021, and the vexatious litigant designation/prefiling order signed on April 21, 2021.” The Petition alleges that all three final judgments have been appealed.

The Petition does not identify which order or court action is subject to relief by mandamus. It does not appear that the request has merit and has not been filed for the purposes of harassment or delay.

IT IS ORDERED that the clerk shall not file the proposed *Petition for Writ of Mandamus*.

SIGNED 11/15/2021.

/s/ Judge Emily Miskel
Local Administrative District Judge

Order entered November 8, 2021



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-21-00439-CV

IN RE MOLLY WILKERSON, Relator

**Original Proceeding from the 366th Judicial District Court
Collin County, Texas
Trial Court Cause No. 366-53554-2020**

ORDER

Before Justices Schenck, Nowell, and Garcia

It has come to the Court's attention that relator has been deemed a vexatious litigant and is subject to a prefiling order, but the Court does not have an order from the local administrative judge allowing this original proceeding. *See* TEX.CIV. PRAC. & REM. CODE ANN. §§ 11.101, 11.102. Accordingly, pursuant to section 11.1035 of the Texas Civil Practice and Remedies Code, this original proceeding is **STAYED** and will be dismissed without further notice unless, no later than **November 18, 2021**, relator obtains an order from the appropriate local

administrative judge permitting the filing of this original proceeding and files the order with this Court. *See id.* 11.035(b).

/s/ ERIN A. NOWELL
JUSTICE

Tab D

Applications for Protective Orders
Case Facts-Finally Determined on
April 20, 2021

1. 366-56037-2020.....
2. 366-56922-2020.....
3. 366-50247-2021.....
4. 366-50663-2021.....
5. 366-51795-2021.....

<https://research.txcourts.gov/CourtRecordsSearch/ViewCasePrint/056f86f0f5005ba79969283fb00a2388>

Case Information

Molly Wilkerson vs. Mark Maldonado

366-56037-2020

Location	Case Category	Case Type	Case Filed Date
Collin County - District Clerk	Family	Protective Order	10/27/2020
Judge	Case Status		
Nowak, Tom	Closed (Closed)		

Parties ²

Type	Name	Attorneys
Applicant	Molly Wilkerson	Pro Se
Respondent	Mark Maldonado	Claire E James, George (Tony) A. Mallers, II

Hearings ¹

Date/Time	Hearing Type	Judge	Location	Result
4/20/2021 10:00 AM	Motion Hearing	Nowak, Tom	366TH Judicial District Court	

Events ⁷

Date	Event	Type	Comments	Documents
10/27/2020	Filing	APPLICATION FOR PROTECTIVE ORDER (OCA)	Application for Protective Order	
11/12/2020	Filing	Order Denied		2020-05-01-po-kit-final_0.pdf
12/1/2020	Filing	Motion to Reinstate - Family	Motion to Reinstate Case on Docket and Notice of Hearing	
12/1/2020	Filing	ORDENDC	Motion to Reinstate Case on Docket and Notice of Hearing	
3/30/2021	Filing	Motion	Mark Maldonado's Motion To Seal Court Records	
3/31/2021	Filing	Order	Order On Mark Maldonaldo's Motion To Seal Court Records	
4/20/2021	Hearing	Motion Hearing	-	-

https://research.txcourts.gov/CourtRecordsSearch/ViewCasePrint/fbb956a99e85553fbf60a15bcf807d52

Case Information

Molly L Wilkerson vs. Mark Maldonado

366-56922-2020

Location	Case Category	Case Type	Case Filed Date
Collin County - District Clerk	Family	Protective Order	12/15/2020
Judge	Case Status		
Nowak, Tom	Closed (Closed)		

Parties ²

Type	Name	Attorneys
Applicant	Molly Wilkerson	Pro Se
Respondent	Mark Maldonado	Pro Se

Hearings ¹

Date/Time	Hearing Type	Judge	Location	Result
4/20/2021 10:00 AM	Motion Hearing	Nowak, Tom	366TH Judicial District Court	

Events ²

Date	Event	Type	Comments	Documents
12/15/2020	Filing	APPLICATION FOR PROTECTIVE ORDER (OCA)	Confidential Application for Protective Order	<input type="checkbox"/> App for Protective Ord (OCA) \$314.00.pdf
4/20/2021	Hearing	Motion Hearing	-	-



<https://research.txcourts.gov/CourtRecordsSearch/ViewCasePrint/845e64ad59155caeab1e5c7b8c8a8f6b>

Case Information

Molly L Wilkerson vs. Mark Maldonado

366-50247-2021

Location	Case Category	Case Type	Case Filed Date
Collin County - District Clerk	Family	Protective Order	1/14/2021
Judge	Case Status		
Nowak, Tom	Closed (Closed)		

Parties ²

Type	Name	Attorneys
Applicant	Molly Wilkerson	Pro Se
Respondent	Mark Maldonado	Claire E James, George (Tony) A. Mallers, II

Hearings ²

Date/Time	Hearing Type	Judge	Location	Result
1/20/2021 10:00 AM	Protective Order Hearing	Nowak, Tom	366TH Judicial District Court	
4/20/2021 10:00 AM	Motion Hearing	Nowak, Tom	366TH Judicial District Court	

Event ☐

Date	Event	Type	Comments	Documents
1/14/2021	Filing	APPLICATION FOR PROTECTIVE ORDER (OCA)	Confidential Application for Protective Order	
1/20/2021	Hearing	Protective Order Hearing	-	-
3/30/2021	Filing	Motion	Mark Maldonado's Motion To Seal Court Records	
3/31/2021	Filing	Order	Order on Mark Maldonado's Motion to Seal Court Records	
4/20/2021	Hearing	Motion Hearing	-	-

<https://research.txcourts.gov/CourtRecordsSearch/ViewCasePrint/7479407628aa5a2c871811816fb315b1>

Case Information

Molly Wilkerson vs. Mark Maldonado

366-50663-2021

Location	Case Category	Case Type	Case Filed Date
Collin County - District Clerk	Family	Protective Order	2/5/2021
Judge	Case Status		
Nowak, Tom	Closed (Closed)		

Parties ²

Type	Name	Attorneys
Applicant	Molly Wilkerson	Pro Se
Respondent	Mark Maldonado	Claire E James, George (Tony) A. Mallers, II

Hearings ¹

Date/Time	Hearing Type	Judge	Location	Result
4/20/2021 10:00 AM	Motion Hearing	Nowak, Tom	366TH Judicial District Court	

Events ⁵

Date	Event	Type	Comments	Documents
2/5/2021	Filing	APPLICATION FOR PROTECTIVE ORDER (OCA)	Confidential Application for Protective Order	
2/17/2021	Filing	Original Answer	Respondent's Original Answer	
3/30/2021	Filing	Motion	Mark Maldonado's Motion to Seal Court Records	
3/31/2021	Filing	Order	Order on Mark Maldonado's Motion to Seal Court Records	
4/20/2021	Hearing	Motion Hearing	-	-

<https://research.txcourts.gov/CourtRecordsSearch/ViewCasePrint/7dd6d540969c5043987bf54c89b6a181>

Case Information

Molly Wilkerson vs. Mark Maldonado

366-51795-2021

Location
Collin County - District ClerkCase Category
FamilyCase Type
Protective OrderCase Filed Date
4/5/2021Judge
Nowak, TomCase Status
Closed (Appealed)

Parties ²

Type	Name	Attorneys
Applicant	Molly Wilkerson	Pro Se
Respondent	Mark Maldonado	Claire E James

Hearings ²

Date/Time	Hearing Type	Judge	Location	Result
4/20/2021 10:00 AM	Motion Hearing	Nowak, Tom	366TH Judicial District Court	
6/25/2021 01:00 PM	Hearing	Nowak, Tom	366TH Judicial District Court	

Events ³¹

Date	Event	Type	Comments	Documents
4/5/2021	Filing	APPLICATION FOR PROTECTIVE ORDER (OCA)	Application for Protective Order	<input type="checkbox"/> Application for Protective Order.pdf
4/14/2021	Filing	Notice of Hearing	Notice of Hearing	<input type="checkbox"/> 2021.0414 Notice of Hearing.pdf
4/14/2021	Filing	Motion	Respondent's Motion to Designate Petitioner Molly L. Wilkerson a Vexatious Litigant	<input type="checkbox"/> 2021.0414 Motion to Declare Wilkerson as Vexatious Litigant.pdf
4/19/2021	Filing	Notice of Hearing		<input type="checkbox"/> 2021.0414 Notice of Hearing (1) (1).pdf
4/20/2021	Hearing	Motion Hearing	-	-
4/21/2021	Filing	Order	Order Declaring Molly L. Wilkerson a Vexatious Litigant	<input type="checkbox"/> Proposed Order Declaring Wilkerson Vexatious Litigant.pdf
4/21/2021	Filing	Mail	Emailed the Order to Office of Court Administration, Candy Shiver, Stacy Samples and all Supervisors	<input type="checkbox"/> Mailed.pdf
4/21/2021	Filing	ORDENDC	Order on Molly Wilkerson's Application for Protective Order	<input type="checkbox"/> Proposed Order Denying Protective Order.pdf
4/21/2021	Filing	Motion	Respondent's Motion to Clarify or Reconsider Ruling Declaring Petitioner a Vexatious Litigant	<input type="checkbox"/> 2021.0421 Respondent's Motion to Clarify or Reconsider.pdf
5/10/2021	Filing	Appeals - Notice Of Appeal	05-21-00360-CV / Notice of Appeal	<input type="checkbox"/> Notice of Appeal - VEX ORDER.pdf
5/17/2021	Filing	Order	Order Granting Permission for Vexatious Litigant to File Notice of Appeal	<input type="checkbox"/> 366-51795-2021 - Order Granting Permission for Vexatious Litigant to File Notice of Appeal.pdf
5/18/2021	Filing	ACCOA	Request for Letter of Designation sent to Appellant	<input type="checkbox"/> Appeal-Request for Letter of Designation.pdf, Appeals-Correspondence.pdf
5/18/2021	Filing	FCOA	and emailed to Court Reporter	<input type="checkbox"/> Appeals - Filed NOA with the COA.pdf, Appeals - Filed NOA with the COA.pdf
5/18/2021	Filing	Affidavit of Inability to Pay	Statement of Inability to Afford Payment of Court Costs or an Appeal Bond in Justice Court	<input type="checkbox"/> Indigent Status.pdf
5/19/2021	Filing	ACCOA		<input type="checkbox"/> Appeals - Correspondence.pdf

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Status as of 12/17/2021 2:56 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Julia F.Pendery		jpendery@cowlesthompson.com	12/17/2021 2:46:05 PM	SENT
Gutierrez Lupe		lgutierrez@cowlesthompson.com	12/17/2021 2:46:05 PM	SENT

Associated Case Party: Mark Maldonado

Name	BarNumber	Email	TimestampSubmitted	Status
Trechelle Andersen		tandersen@cowlesthompson.com	12/17/2021 2:46:05 PM	SENT
Gracen Daniel	24116248	gracen.daniel@griffithbarbee.com	12/17/2021 2:46:05 PM	SENT
Claire James		cjames@cowlesthompson.com	12/17/2021 2:46:05 PM	SENT
George TonyMallers		tmallers@cowlesthompson.com	12/17/2021 2:46:05 PM	SENT

Associated Case Party: Molly Wilkerson

Name	BarNumber	Email	TimestampSubmitted	Status
Molly LouiseWilkerson		missmolly2020@aol.com	12/17/2021 2:46:05 PM	SENT

Automated Certificate of eService

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Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Julia F.Pendery		jpendery@cowlesthompson.com	1/22/2022 12:58:21 PM	SENT
Gutierrez Lupe		lgutierrez@cowlesthompson.com	1/22/2022 12:58:21 PM	SENT

Associated Case Party: Mark Maldonado

Name	BarNumber	Email	TimestampSubmitted	Status
Gracen Daniel	24116248	gracen.daniel@griffithbarbee.com	1/22/2022 12:58:21 PM	SENT
Claire James		cjames@cowlesthompson.com	1/22/2022 12:58:21 PM	SENT
George TonyMallers		tmallers@cowlesthompson.com	1/22/2022 12:58:21 PM	SENT

Associated Case Party: Molly Wilkerson

Name	BarNumber	Email	TimestampSubmitted	Status
Molly LouiseWilkerson		missmolly2020@aol.com	1/22/2022 12:58:21 PM	SENT